

**Richard B. Rodriguez Esq., CSB#: 106205**

815 Third Avenue, Suite 207  
Chula Vista, CA 91911  
(619) 427-7622  
(619) 427-7344 Fax  
[lawrichrod@aol.com](mailto:lawrichrod@aol.com)

**Attorney for Defendant: Isabel Quistian, III**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

(Judge Benitez)

**UNITED STATES OF AMERICA,**

CASE NO.: 08CR0509

**PLAINTIFF,**

**NOTICE OF MOTION AND MOTIONS  
TO:**

VS.

## 1. COMPEL DISCOVERY

## ISABEL QUISTIAN, III,

## **2. LEAVE TO FILE FURTHER MOTIONS**

**DEFENDANT**

**TO: Karen P. Hewitt, UNITED STATES ATTORNEY, and Tim Salel, Assistant United States Attorney:**

Please take notice that on or as soon thereafter as counsel may be heard, the defendant, Isabel Quistian, III by and through his counsel, Richard B. Rodriguez, Esq., will move the court for an order to grant the motions listed above.

Dated: March 26, 2008

Respectfully Submitted,

s/Richard B. Rodriguez

Attorney for Defendant  
E-mail: lawrichrod@aol.com

**Richard B. Rodriguez Esq., CSB#:** 106205  
815 Third Avenue, Suite 207  
Chula Vista, CA 91911  
(619) 427-7622  
(619) 427-7344 Fax  
[lawrichrod@aol.com](mailto:lawrichrod@aol.com)

**Attorney for Defendant: Isabel Quistian, III**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

**(Judge Benitez)**

UNITED STATES OF AMERICA, ) CASE NO.: 08CR0509  
 )  
 ) PLAINTIFF, ) POINTS AND AUTHORITIES  
 ) IN SUPPORT OF MOTIONS TO:  
 )  
vs. ) 1. COMPEL DISCOVERY  
 )  
Isabel Quistian, III ) 2. LEAVE TO FILE FURTHER MOTIONS  
 )  
 )  
 ) DATE: April 21, 2008  
 ) TIME: 2:00 pm.  
 ) PLACE: COURTROOM JUDGE BENITEZ  
DEFENDANT, )

I.

## **FACTUAL SUMMARY**

The Defendant has been charged with three counts in a Five-count indictment with violations of Title 21, U.S.C., Sections 846 and 841 (a) (1) and 18 U.S.C. § 2 Conspiracy to Distribute Oxycodone and Hydrocodone Bitartrate; Title 21, U.S.C., 841 (a) (1) and 18 U.S.C. § 2 – Possession with the intent to distribute Oxycodone and Hydrocodone Bitartate; and 853 (p) Criminal Forfeiture. The defendant requests the following discovery:

1  
2  
**II**  
3**TO COMPEL FURTHER DISCOVERY**

4 The defendant requests the following further discovery, pursuant to Fed. R. Crim. P. 16:

5 (A) All written and oral statements made by him. This request includes but is not limited to any  
6 rough notes, records, transcripts or other documents in which statements of the defendant  
7 are contained. It also includes the substance of any oral statements, which the government  
8 intends to introduce at trial, together with any rough notes of any statements. The  
9 defendant has been given some discovery thus far. These documents are discoverable under  
10 Fed. R. Crim. P. 16 (a)(1)(A);

11 (B) All documents, statements, agent's reports, and tangible evidence favorable to the defendant  
12 on the issue of guilt and/or innocence, which affects the credibility of the government's case.  
13 This evidence must be produced to defendant pursuant to Brady vs. Maryland, 373 U.S.  
14 83 (1963), and United States vs. Augurs, 427 U.S. 97 (1976);

15 (C) All evidence, documents and information pertaining to any prior arrests and convictions or  
16 prior bad acts. Evidence of prior record is available under Fed. R. Crim. R.16 (a)(1)(B).  
17 Evidence of prior similar acts is discoverable under Fed. R. Crim. P.16 (a)(1)(c) and Fed. R.  
18 Evid. 404(b) and 609;

19 (D) All evidence seized in this case. These materials are available pursuant to Fed. R. Crim.  
20 P.16 (a)(1)(c);

21 (E) All statements, which exculpate defendant, or any other person whom the government  
22 alleges is a co-conspirator with him, Any statement, which exculpates defendant, is  
23 discoverable, since the government will argue that statement may be attributed to him under  
24 Fed. R. Evid. 801(d)(2)(E). See United States vs. Konefal, 556 F. Supp. 698, 705, 07,  
25 (N.D.N.Y 1953); United States vs. Thevis, 84 F.R.D. 47, 56-57 (N.D. Ga. 1979);

26 (F) Any Jencks (18 U.S.C. Section 3500) materials. All materials should be promptly disclosed  
27 to the defense to avoid delay at the time of trial and to allow an opportunity to evaluate, and  
28

possibly conduct further investigation if necessary.

(G) Any and all raw notes made by investigative officers of all witnesses interviewed. United States vs. Harris, 542 F. 2<sup>nd</sup> 1094 (9<sup>th</sup> Cir. 1976)

IV

**FOR LEAVE TO FILE FURTHER MOTIONS.**

The defendant respectfully requests this court to grant him leave to file further motions based upon additional information, evidence, or discovery occurring prior, during, or after the motion date. This of course, is based upon new or additional information being obtained after the preparation, filing and/or motion hearing on this matter.

V

## **CONCLUSION**

Defendant Isabel Quistian, III respectfully requests the previously discussed motions be granted.

Dated: March 26, 2008

Respectfully Submitted,

s/Richard B. Rodriguez

Attorney for Defendant  
E-mail: lawrichrod@aol.com